MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2344 OF 2006
IN
FIRST APPEAL NO.569 OF 2007

The Oriental Insurance Co.Ltd. Appellant
versus
Yeshwant Narayan Bhoir & two others Respondents

Mr.N.M.Godbole for appellant.

CORAM : A.S.OKA, J.

DATE : 26th February 2007

PC :

1. Heard learned advocate appearing for the applicant insurer. The applicant insurer contended before the Tribunal that there is no liability to pay the compensation as the cheque which was issued by the insured towards premium amount was dishonoured.

2. Prima facie, third parties cannot suffer when on the date of the accident, the policy of insurance was admittedly issued by the applicant. Apart from this fact, the Tribunal has found that the memorandum issued by the bank to the Insurance Company regarding dishonour of the cheque was not produced.

3. Considering the aforesaid peculiar facts, even if the applicant succeeds in the appeal, the award made against the insurered will remain. In the event of success of the appeal the amount of compensation can always be recovered by the applicant from the insured.

4. Subject to the observations made above the application is rejected.

(A.S.OKA, J.)